

PATENT**REMARKS**

Claims 1-11 are pending in the present application. In the above amendments, claims 1 and 7 have been amended, and claim 10 has been canceled without prejudice.

Applicant respectfully responds to this Office Action.

Claim Rejections – 35 USC § 103

Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashem et al. (US 6,330,456) in view of Chen et al. (US 2002/0105929).

Applicant amend claims 1-3 and 7 to include the feature “wherein the second power control instruction is used to adjust the transmit power of the common channel at a base station.”

Applicant's claims as amended are novel and patentable over Hashem and Chen. Hashem and Chen do not teach all features of Applicant's claims. For example, Applicant's claim 1 recites “a first power control instruction received on a common channel.” The specification as originally filed describes in paragraphs [1034] to [1038] the operation of power control on a common channel. Furthermore, Figures 5 and 7 show power control bits over a time-multiplexed common channel. In contrast, Hashem has no teaching of a common power control channel as claimed by Applicant. Rather, Hashem teaches how mobile stations respond to power control commands from multiple base stations (please see Hashem col. 1, lines 20-25). Hashem's Figure 2 shows multiple power control commands from multiple base station, but no teaching of power control commands send over a common channel. While Chen teaches a common channel, there is no teaching of “wherein the second power control instruction is used to adjust the transmit power of the common channel at a base station.”

Therefore, Claims 1-3 and 7 are patentable over Hashem and Chen.

Claims 4-6, 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knutsson et al. (WO 99/53630) in view of Chen et al. (US 2002/0105929).

All of Applicants claims are also patentable over Knutsson combined with Chen because there is no *prima facie* case of obviousness. Please see MPEP § 2143: “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion

PATENT

or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Knuttson has no teaching of power control over a common channel. Rather, Knuttson teaches power control for a mobile station in "soft handover" (please see Knuttson page 1, lines 27-30). The power control bits shown in Knuttson FIG 2, are for a downlink data channel (please see Knuttson page 6, line 3). Power control on a downlink data channel is distinct then power control over a common power control channel. Chen teaches a common channel but there is no motivation in the references or to one of ordinary skill in the art to combine Chen with Knuttson. Knuttson teaches adjusting power control bits for the downlink when in "soft handover." When not in "soft handover," Knuttson directly teaches away from adjusting power control bits (please see FIG. 3B element 315). Because, Knuttson teaches power control bits slotted with data bits (please see FIG. 2), there is no reason separately adjust power control bits when not in "soft handover." There is no motivation to combine such a structure with the common channel in Chen. Because there is no motivation to combine Knuttson and Chen, there is no *prima facie* case of obviousness, and Applicant's claims are patentable over Knuttson and Chen.

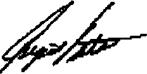
PATENT**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: November 17, 2005

By:


Rupit Patel, Reg. No. 53,441
(858) 651-7435

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 658-5787
Facsimile: (858) 658-2502